



Board for Judicial Administration (BJA) Meeting

Friday, July 18, 2014 (9 a.m. – Noon)

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

MEETING MINUTES

BJA Members Present:

Chief Justice Barbara Madsen, Chair
Judge Kevin Ringus, Member Chair
Judge Veronica Alicea-Galvan
Judge Thomas Bjorgen
Judge Bryan Chushcoff
Judge Harold Clarke III
Ms. Callie Dietz
Judge Janet Garrow
Judge Judy Rae Jasprica
Judge Kevin Korsmo (by phone)
Judge Michael Lambo
Judge John Meyer
Judge Sean O'Donnell
Mr. Patrick Palace
Judge Jeffrey Ramsdell
Judge Ann Schindler
Judge Laurel Siddoway
Judge Scott Sparks
Judge David Steiner

Guests Present:

Mr. Jeff Amram (by phone)
Mr. Jim Bamberger
Ms. Ishbel Dickens
Ms. Suzanne Elsner
Ms. Ruth Gordon
Judge Samuel Meyer
Judge Kitty-Ann van Doorninck (by phone)

Public Present:

Mr. Tom Goldsmith

AOC Staff Present:

Mr. John Bell
Ms. Beth Flynn
Mr. Steve Henley
Ms. Shannon Hinchcliffe
Mr. Dirk Marler
Ms. Mellani McAleenan
Mr. Ramsey Radwan

June 20 BJA Meeting Minutes

Judge Schindler requested that on page 3 of the minutes, in the Budget and Funding Committee report in the "Interim Standing Committee Charters" section, that it reflect that the Budget and Funding Committee will use not only the mission, core functions and the Principal Policy Goals of the Washington State Judicial Branch but that the charter reflects that the committee will also use the BJA resolutions as criteria for budget requests.

It was moved by Judge Sparks and seconded by Judge Alicea-Galvan to approve the minutes with the addition of Judge Schindler's revision to include "BJA resolutions" in the Budget and Funding Committee portion of the minutes regarding criteria for budget requests. Motion carried.

GR 31.1 Forms

Mr. Bell stated that the GR 31.1 forms included in the meeting materials were presented to the BJA during their June meeting. Mr. Bell did not receive any questions, concerns or comments regarding the forms within the last month.

It was moved by Judge O'Donnell and seconded by Judge Ramsdell to approve the GR 31.1 forms as submitted. The motion carried.

There were some questions regarding the cost for records. There is no cost for viewing records and courts can charge for research over one hour. The first hour is free.

Chief Justice Madsen asked the BJA members to share the forms with their courts so they are ready for them when they are distributed to all courts.

BJA Standing Committee Charters

The BJA will be approving the standing committee charters today but not the budget or resources needed for each committee.

Budget and Funding: Judge Schindler reported that no additional comments were received regarding the charter since the last meeting. The committee was asked to assume responsibility for a long-range budget plan because BJAR 4 states "The Board shall develop a funding strategy for the judiciary consistent with the long-range plan and RCW 43.135.060."

Mr. Radwan stated that he has concerns with adding that to the charter. He said that when the state had funds available, the judicial branch was successful in obtaining funds. The state is still continuing to lag behind as far as revenue and there are competing demands on the budget and the fiscal reality needs to be considered. He would prefer that the interim standing committee look at something to add to the charter and bring it back to the BJA at a later date but to approve the charter, as is, today. In addition, the Justice in Jeopardy materials can be updated to address this.

Ms. Hinchcliffe explained that the standing committees are creating work horse committees. When she noticed there was a funding plan under BJAR 4, the Interim Policy and Planning Committee discussed it. She was not intending to be directive but she did intend to communicate between meetings and address the duties from BJAR 4. If the BJA prefers to have the duties remain with the full Board, that can be done. The idea is to try to figure out a long-range plan or funding strategy. If the BJA is not prepared, and does not have those plans and ideas when there is an opportunity, the BJA will miss it.

Judge Schindler stated that the BJA Budget and Funding Committee will look at funding proposals and then determine which proposals to move forward to the full BJA for consideration. The committee will use BJA resolutions and policies to determine the funding to seek. They will also share funding information regarding the demands on state funds with the entire Board. That is critical to do any sort of analysis with the budget.

It was moved by Judge Alicea-Galvan and seconded by Judge Meyer to bundle the charters as written and approve them. The motion failed.

Judge Schindler moved and it was seconded to approve the Budget and Funding Committee charter with the commitment that the committee members will review the Court Funding Task Force Report. The motion carried.

Court Education Committee: Judge Jasprica reported that the Interim Court Education Committee met with members of the Board for Court Education (BCE). They created a memorandum of understanding stating the Court Education Committee will honor whatever commitments the BCE had already made.

There was some concern regarding how the BCE will be eliminated since a court rule created it. The Supreme Court could sunset the BCE once the Court Education Committee is functioning. The new committee would take over the essential functions that are now done by the BCE.

It was moved by Judge Sparks and seconded by Judge Garrow to approve the Court Education Committee charter and memorandum of understanding. The motion carried.

Legislative Committee: Judge Sparks stated that the Legislative Committee charter is ready for approval.

Mr. Bamberger requested that “agencies” be included in the third bullet under section VIII.

Judge Garrow pointed out that the executive committee is made up of non-voting members of the BJA.

Judge Steiner noted that there is a typo in the fifth bullet in section V.

It was moved by Judge Sparks and seconded by Judge Jasprica to approve the Legislative Committee charter with the addition of “agencies” in the third bullet of section VIII and any other grammatical revisions needed. The motion carried.

Policy and Planning Committee: Judge Ringus stated that the Policy and Planning Committee plans to take over the Best Practices and Public Trust and Confidence committees. The Long-range Planning Committee will become more of a strategic planning group.

It was noted that the review date is three years and there was a question on whether it should be consistent with the other committees. It was suggested that all of the committee charters be reviewed next year to determine how they are working and the charters can be revised, if needed.

Chief Justice Madsen moved and Judge Ramsdell seconded to approve the Policy and Planning Committee charter and amend it to state the review date would be every two years and the first review would be in 2016. The motion carried.

It was moved by Judge Alicea-Galvan and seconded by Judge Jasprica to review the committee charters in a year. The motion carried.

Standing Committee Budget Requests

Ms. Hinchcliffe reported that there is not enough funding to fund all of the standing committee budget requests and to continue to hold monthly Board meetings.

In the past, the BJA has lived within a culture of not having much funding so the Board and committees did not spend much money. That will change based on how the BJA decides to drive its business. The budget will drive the BJA's business in other ways such as task forces and projects, etc.

The BJA budget is \$38,800. If all requests and monthly meetings were funded it would cost between \$36,500 - \$53,000.

The BJA needs to make the business decision of how often to meet. In addition, the BJA needs to decide how to move forward. Does the BJA want to sponsor projects? If so, how will they be funded? Ms. Hinchcliffe needs direction from the BJA on how the BJA will do business and how to move forward. In addition, AOC does not have the resources to assign one staff person per committee and staffing decisions should be informed by the BJA's discussion.

Judge O'Donnell moved and Judge Sparks seconded to take ten minutes to vet various proposals and then vote on them. This motion was never voted on after the discussion.

There were various ideas/preferences voiced during the discussion. There was a preference for the committee meetings to occur on the same day as the BJA meetings. There was also a suggestion to meet every other month or possibly two months on and one month off which would result in eight Board meetings a year.

If the August BJA meeting is canceled, that would give Ms. Hinchcliffe time to discuss the various meeting alternatives with other committee members and come back with a proposal at the September BJA meeting. In the meantime, the standing committees could be populated.

Judge O'Donnell moved that the BJA meet six times a year with the standing committees meeting in the morning and the Board meeting in the afternoon. The motion was withdrawn.

It was moved by Judge Garrow and seconded by Judge Schindler to cancel the August meeting. The motion carried.

Other BJA Committee Recommendations

Ms. Hinchcliffe explained that as a body, the BJA never went through the recommendations behind tab 5 on page 73. Some of the committees have been brought up during the charter discussions. Below is information about the BJA committees.

- Ms. Hinchcliffe met with Judge Jean Rietschel regarding the work of the BJA Best Practices Committee. They will make recommendations regarding how to deal with the statutory obligations of the BJA. Instead of a standing committee, this could be an ad hoc workgroup if needed.
- Ms. Hinchcliffe will work with the Trial Court Advocacy Board (TCAB) to discuss whether they would be willing to undertake the duties of the Trial Court Operations Funding Committee.

- The work of the BJA Legislative/Executive Committee is subsumed in the Legislative Committee charter.
- The duties to create a long-range funding plan will most likely be picked up by the Policy and Planning Committee and Budget and Funding Committee.
- The BJA Public Trust and Confidence Committee will find a home in the Policy and Planning Committee.
- The Regional Courts Oversight Committee work is finished and this committee will not move forward.
- The Filing Fee Workgroup can sunset.
- The Problem Solving Courts Work Group and the BJA GR 34 Work Group can sunset.

This idea is to give most of these committees a home.

There will be a discussion item in September and Judge Jean Rietschel and Justice Mary Fairhurst will be invited to the meeting.

Public Disclosure Commission Discussion

Judge Sam Meyer discussed his duties as the District and Municipal Court Judges' Association (DMCJA) Legislative Committee Chair. At the end of May he received a letter from the Public Disclosure Commission (PDC) regarding their lobbying activity on behalf of the DMCJA. Judge David Svaren responded and stated the judges mentioned in the PDC letter are not lobbyists and not subject to the registration and reporting requirements. There was a follow-up e-mail request from the PDC and Judge Meyer responded. The DMCJA recently approved hiring an attorney to deal with the PDC on this issue. It appears the PDC considers Judge Meyer a lobbyist. The other thing that makes him think that the PDC considers him covered is the fact that the DMCJA will reimburse local jurisdictions for pro tems while judges testify to the legislature. The PDC views that as a lobbying expense. Judge Meyer wanted to bring this to the BJA because if the PDC finds that judges are covered this will impact judges at all court levels. It might be helpful that the BJA speaks as a whole on this issue.

Judge van Doorninck asked what the difference is between a citizen and judge lobbying. Judge Meyer explained that there is an exemption if lobbying activities are limited to testifying. RCW 3.70.040 states the DMCJA is required to "report annually to the supreme court as well as the governor and the legislature on the condition of business in the courts of limited jurisdiction, including the association's recommendations as to needed changes in the organization, operation, judicial procedure, and laws or statutes implemented or enforced in these courts." He is not sure how that can be done without testifying at legislative hearings.

Ms. McAleenan stated that if a judge is not trying to defeat or pass a bill, is meeting with legislators less than four times a year, or is testifying it is not reportable. The implications of considering judges lobbyists are broad and unknown.

A few BJA members voiced their concern in taking a position on this in the event that the case ends up in their court.

There was a question regarding AOC asking for an informal opinion from the Attorney General's Office and Ms. McAleenan responded that AOC could request an informal opinion. Judge Meyer will ask the DMCJA if they would like to request an informal opinion. It was also suggested that an ethics opinion can be requested.

Administrative Manager's Report

A written BJA Administrative Manager Status Update was included in the meeting materials.

The chartering process is almost complete. The BJA sent 23 requests for charters and received six responses. Follow-up letters will be sent and there will be a discussion during the September BJA meeting regarding what will be done with the charters. The BJA originally wanted everything in one location on the Washington Courts Web site but there are some logistical challenges.

A BJA Business Account summary was also included in the meeting materials.

Other Business

The next meeting is scheduled for Friday, September 19 at 9 a.m.

It was moved by Judge Sparks and seconded by Judge Lambo to adjourn the meeting.

Recap of Motions from the July 18, 2014 meeting

Motion Summary	Status
Approve the June 20, 2014 BJA meeting minutes with the revision to include "BJA resolutions" in the Budget and Funding Committee portion of the minutes regarding criteria for budget requests	Passed
Approve the GR 31.1 forms as submitted	Passed
Bundle all the charters as written and approve them	Failed
Approve the Budget and Funding Committee charter with the commitment that the Budget and Funding Committee members will review the Court Funding Task Force Report	Passed
Approve the Court Education Committee charter and memorandum of understanding	Passed
Approve the Legislative Committee charter with the addition of "agencies" in section VIII, third bullet, and any grammatical revisions	Passed
Approve the Policy and Planning Committee charter with the amendment to revise the review date to every two years and the first review will be in 2016	Passed
Review all the BJA standing committee charters in a year	Passed
Take ten minutes to vet various proposals and then vote on them	After discussion, this motion was never voted on

Motion Summary	Status
The BJA will meet six times a year with the standing committees meeting in the morning and the Board meeting in the afternoon	Withdrawn
Cancel the August BJA meeting	Passed

Action Items from the July 18, 2014 meeting

Action Item	Status
<u>June 20, 2014 BJA Meeting Minutes</u> <ul style="list-style-type: none"> • Make revisions and post the minutes online • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials 	Done Done
<u>GR 31.1 Forms</u> <ul style="list-style-type: none"> • BJA members should share the forms with their court staff so they are ready for them when they are sent to all courts 	
<u>Interim Standing Committee Charters</u> <ul style="list-style-type: none"> • Finalize charters <ul style="list-style-type: none"> • Add “agencies” in the third bullet under VIII and fix the typo in section V of the Legislative Committee charter • Amend the Policy and Planning Committee charter to have the review date be every two years with the first review in 2016 • Populate committees • Send Budget and Funding Committee members the Court Funding Task Force Report • Update BJA with current court funding information during the September meeting • Report on the education and BCE funding structure at the September meeting • Get signatures on Court Education Committee and BCE memorandum of understanding • Add charter review to the July 2015 agenda 	Added to September agenda Added to September agenda Done
<u>Standing Committee Budget Requests</u> <ul style="list-style-type: none"> • Create a meeting scenario of meeting two months and having one month off • Add BJA meeting scenarios to September agenda 	Done
<u>Other BJA Committee Recommendations</u> <ul style="list-style-type: none"> • Ms. Hinchcliffe will work with TCAB to ensure the duties of the Trial Court Operations Funding Committee continue • Add to September BJA meeting agenda as a discussion item <ul style="list-style-type: none"> • Invite Judge Rietschel and Justice Fairhurst to the September meeting 	Done
<u>Public Disclosure Commission Discussion</u> <ul style="list-style-type: none"> • Request informal AG opinion on this issue 	

Action Item	Status
<u>Non-BJA Committee Charters</u> <ul style="list-style-type: none">• Add to September BJA meeting agenda	Done
<u>Other Business</u> <ul style="list-style-type: none">• Cancel the August meeting—send notice to BJA listserv, update online BJA meeting schedule and Master Calendar	Done